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Cooperative Extension South Dakota State University

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# Proposed Amendment: Two-thirds Vote on Tax Increases



Cooperative Extension Service  
South Dakota State University  
U.S. Department of Agriculture

## Proposed Amendment:

# Two-thirds Vote on Tax Increases

Galen Kelsey  
Extension economist—public affairs

The proposed amendment to the South Dakota Constitution would add a new section to Article XI. It would require a two-thirds vote of the legislative body to pass measures increasing the rate of taxation.

## The Amendment

The text of the proposed amendment reads as follows:

The rate of taxation imposed by the State of South Dakota on personal or corporate income or on sales or services, or the allowable levies or the percentage basis for determining valuation as fixed by law for purposes of taxation on real or personal property, shall not be increased unless by consent of the people by exercise of their right of initiative or by two-thirds vote of all the members elect of each branch of the Legislature.

## Analysis

The purpose of this amendment is to require a two-thirds vote of the Legislature to pass any measure which will increase the rate of taxation imposed on the people at the state or local level. The proposed amendment is not clear whether it would also apply to any new types of taxes which might be imposed; although not explicitly mentioned, it is generally assumed that it would apply.

The sponsors of the amendment say that if two thirds of the members in each legislative body agree to an increase in the rate of taxation, such increases are necessary for government operations.

Opponents of the proposed amendment list several reasons why the two-thirds vote requirement on tax matters should not pass. One of these arguments is based upon the "one man, one vote" rule. The amendment places a powerful tool in the hands of a minority. As the Legislature is apportioned on the basis of population, each legislator represents approximately an equal number of people.

A requirement of two-thirds vote represents minority rule. There are 70 members in the House of Representatives and 35 in the Senate. Twenty-four house members or 12 senators from a total of 105 legislators could block any changes in the tax rates or changes in the tax system if this amendment passes.

Another argument in opposition to the proposed amendment is that making tax measures more difficult to pass will delay tax equalization.

For example, to date the Legislature has not passed a means of fully replacing the revenue lost to local governments by the repeal of the personal property tax. A minority exceeding one third of the membership in either house could prevent the passage of a means of replacing this revenue.

If a legislative impasse occurred on measures to fully fund the personal property tax replacement, the revenue would have to be replaced at the county level by increases in local taxes such as on real property. If such replacement did not occur, local services, primarily education in this case, would experience a decline in available revenue for its programs. Most counties are not presently taxing property at the 60% true and actual value allowed by current law, so real property taxes could go up for awhile in most counties without further legislation.

(In 1977, on taxes collected in 1978, taxation of real property ranged from a low of 25% of true and actual value in Corson County to the legal limit of 60% in Jones County.)

There is a possibility that passage of this amendment might actually increase the chances of passage of a state income tax. Some legislators have opposed an income tax, even though low rates would apply, on the grounds that once a tax is initiated it becomes easier each year to raise the rates. Thus, their fear of easy rate increases would be reduced with the two-thirds vote requirement.

There are precedents in the South Dakota Constitution for a two-thirds vote requirement of the Legislature. It is required for passage of special appropriations (the general revenue bill may pass by a simple majority), for emergency measures (take effect immediately upon passage), to override a governor's veto, to fix legislators' and constitutional officers' salaries, and for expenditures for roads, cement plants, coal mines, electrical power plants, and other similar "internal improvements" authorized by the Constitution.

You will have to decide the merits of the arguments favoring and opposing the proposed constitutional amendment. Should this be a part of our state Constitution?



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